

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1675 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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BAI MARIYAM HAJIBHAI

Versus

HEIRS OF MUMANI ALI KALU  
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Appearance:

MR PV HATHI for Petitioners  
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CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 18/02/2000

ORAL JUDGEMENT

1. This is a revision u/s 29[2] of the Bombay Rent Act at the instance of the original defendants - tenants, who were sued by the respondent - landlord for a decree of eviction on a number of grounds.

The suit for eviction was based firstly on the

ground that the tenant had illegally sublet the suit premises [section 13[e] of the Rent Act], that the suit premises have not been used continuously for a period of six months by the tenant for the purposes for which they were let [section 13[k] of the Rent Act], that the tenant has acquired alternative suitable accommodation [section 13[l] of the Rent Act], and that the landlord requires possession of the suit premises for his personal bonafide requirements [section 13[g] of the Rent Act].

It is also found that the present revision challenges the concurrent findings of fact recorded by the two courts below.

2. Before proceeding with the merits of the matter, it would be pertinent to bear in mind the principles laid down by the Supreme Court while dealing with the revisions arising u/s 29[2] of the said Act. The Supreme Court in the case of Patel Valmik Himatlal & others v/s Patel Mohanlal Muljibhai [ 1998(2) GLH 736 = AIR 1998 SC 3325], while approving and reiterating the principles laid down in its earlier decision in the case of Helper Girdharbhai v/s Saiyad Hohmad Mirasaheb Kadri [AIR 1987 SC 1782], held that High Court cannot function as a court of appeal, cannot reappreciate the evidence on record, cannot discard concurrent findings of fact based on evidence recorded by the courts below, and cannot interfere on grounds of inadequacy or insufficiency of evidence, and cannot interfere, except in cases where conclusions drawn by the courts below are on the basis of no evidence at all, or are perverse. A different interpretation on facts is also not possible merely because another view on the same set of facts may just be possible.

3. In view of the aforesaid clear position in law, it was put to learned counsel for the petitioner as to how he could possibly justify, that firstly, the appreciation of evidence on part of the two courts below was in any way perverse, or whether he could successfully challenge the findings on the ground that they are based on no evidence whatsoever. Learned counsel for the petitioner was unable to satisfy this Court on any of the aforesaid two questions. However, as a last request, learned counsel for the petitioner sought time to enable the petitioner tenant to find alternative accommodation else where, and for this purpose, sought time to vacate the suit premises. In respect of this request, learned counsel for the respondent was asked by the Court as to what time he would be able to agree to, and in this

regard, learned counsel for the respondent stated that the Court may grant such time as it considers reasonable.

4. Looking to the facts and circumstances of the case, I am satisfied that interest of justice will be met if the petitioner tenants are granted time upto 18th August 2000 to vacate the suit premises, subject to each of the petitioners filing the usual undertaking in this Court in this regard, within 30 days from today. It is clarified that there shall be no extension of time for the purpose of filing the undertaking, and if the undertaking is not filed in due time, the present order granting time to vacate the premises shall stand vacated ipso facto.

5. This revision is accordingly disposed of and rule is discharged with no orders as to costs.

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